

**FILED**

**NOT FOR PUBLICATION**

**JUN 6 2006**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

**UNITED STATES OF AMERICA,**

Plaintiff - Appellee,

**RICARDO PEREZ-LOPEZ; ENEDINA  
PERAZA-SOTO,**

Claimants - Appellants,

v.

**\$57,790 IN U.S. CURRENCY,**

Defendant.

No. 03-57051

D.C. No. CV-01-00414-JSR/NLS

**MEMORANDUM\***

Appeal from the United States District Court  
for the Southern District of California  
John S. Rhoades, District Judge, Presiding

Argued and Submitted August 5, 2005  
Pasadena, California

Before: **KOZINSKI** and **RAWLINSON**, Circuit Judges, and **EZRA\*\***,  
District Judge.

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\* This disposition is not appropriate for publication and may not be cited  
to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

\*\* The Honorable David A. Ezra, United States District Judge for the  
District of Hawaii, sitting by designation.

“[C]laimants who assert possessory interests in . . . forfeited property and provide some explanation for their possession have Article III standing to contest the forfeiture.” United States v. \$100,348.00, 354 F.3d 1110, 1119 (9th Cir. 2004); see also United States v. \$191,910.00, 16 F.3d 1051, 1057 (9th Cir. 1994) (“In order to contest a forfeiture, a claimant need only have some type of property interest in the forfeited items. This interest need not be an ownership interest; it can be any type of interest, including a possessory interest.”). Claimants here meet both requirements: Peraza-Soto asserts that she is the owner of the defendant currency, and Perez-Lopez asserts that he is a co-owner, as well as his wife’s bailee. Further, Perez-Lopez was driving the car in which the money was found. Claimants also provide some explanation for their possession: They argue they received the money in exchange for their home. Thus, claimants have met the Article III requirements for contesting the forfeiture.

United States v. Section 18, 976 F.2d 515, 520 (9th Cir. 1992), and United States v. One Parcel of Land, 902 F.2d 1443, 1444 (9th Cir. 1990) (per curiam), do not establish a higher burden for showing Article III standing. Neither case mentions Article III in its discussion of “standing,” nor does either cite any caselaw discussing Article III. Rather, these cases address the showing that a civil forfeiture claimant must make on the merits as a statutory matter. We have on

occasion referred to this as a claimant’s “standing” to contest the forfeiture. But, as we explained in United States v. Hooper, 229 F.3d 818 (9th Cir. 2000), “[t]he district court’s concluding statement that Claimants lacked ‘standing’ is simply another way of stating that Claimants had failed to establish on the merits a property interest entitling them to relief.” Id. at 820 n.4. It is this type of “standing” that Section 18 and One Parcel of Land refer to, not Article III standing. The district court erred in concluding otherwise.

The district court did not find that claimants had failed to prove their claim on the merits, and thus we cannot affirm on that alternative ground. Claimants demanded a jury trial, but no jury trial was ever conducted. Moreover, the court’s ruling that the property be forfeited, see dissent at 2, does not imply that it considered claimants’ claims on the merits. In a forfeiture action, if the court rules claimants lacked standing, the government, as the plaintiff, wins on the merits, and thus the property is deemed “forfeited.” We therefore cannot find that plaintiffs failed to prove their claim on the merits.

**REVERSED AND REMANDED.**